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9 *Attorneys for Plaintiffs Timothy DuFour and*  
10 *Kenneth Tanner, on their own behalves*  
11 *and on behalf of all others similarly situated,*

12 **IN THE UNITED STATES DISTRICT COURT**  
13 **FOR THE NORTHERN DISTRICT OF CALIFORNIA**  
**SAN FRANCISCO DIVISION**

14 TIMOTHY DuFOUR and KENNETH  
TANNER, individuals, on their own behalves  
15 and on behalf of all others similarly situated,

16 Plaintiffs,

17 v.

18 BE., LLC, DYNAMIC SHOWCASES, LLC,  
California limited liability companies,  
19 MONTEREY FINANCIAL SERVICES, INC.,  
MTS HOLDINGS GROUP, INC., California  
20 corporations, 1901 CO., a Nevada corporation,  
BE MARKETING LIMITED, a private limited  
21 company registered in England and Wales,  
ERIK DeSANDO, BARRY FALCK, JACOB  
22 STEINBECK, VITALY RASHKOVAN, and  
DOES 1-100, inclusive,

23 Defendants.

No. 09-03770-CRB

Judge Charles R. Breyer

**DECLARATION OF ETHAN PRESTON  
IN SUPPORT OF PRELIMINARY  
INJUNCTION**

**Date:** November 6, 2009  
**Time:** 10:00 am  
**Location:** Courtroom 8, 19<sup>th</sup> Floor  
450 Golden Gate Ave.  
San Francisco, CA 94102

24 ETHAN PRESTON hereby declares:

- 25 1. My name is Ethan Preston. I am over the age of eighteen and am fully  
26 competent to make this declaration. I make this declaration based upon personal knowledge.  
27  
28 2. On or about July 15, 2009, I had a service obtain the registration for the

1 fictitious business name "My Talent Service" from the County of Los Angeles. A true and  
 2 correct copy of this registration is attached to this Declaration as Exhibit A. The registration  
 3 indicates that MTS Holdings Group, Inc. registered "My Talent Service" as a fictitious  
 4 business name, and lists Vitaly Rashkovan as the "owner" of MTS.

5  
 6 3. A true and correct copy of the California Secretary of State's agent for service  
 7 of process listing for MTS Holdings Group, Inc. is attached to this Declaration as Exhibit B.  
 8 This listing indicates Vitaly Rashkovan is MTS Holdings Group, Inc.'s authorized agent for  
 9 service of process.

10 4. On or about July 20, 2009, I downloaded the webpage publicly available at  
 11 <http://gonnabe.com/kids/News/Latest/About-Be.html>. A true and correct copy of this webpage  
 12 is attached to this Declaration as Exhibit C. This webpage states in relevant part:

13 Be is a multifaceted organization designed to give young artists the resources,  
 14 services, experience and exposure that they need in order to succeed in the  
 15 entertainment industry. . . . Be's management team is headed by entertainment  
 16 industry veterans with deep knowledge and expertise in casting, production and  
 talent management, giving the company an insider's perspective on Hollywood.  
 . . . Are You an AGENT Looking for Talent? Looking for talent for your next  
 big production? CLICK HERE

17 5. On or about July 20, 2009, I downloaded the webpage publicly available at  
 18 <http://gonnabe.com/kids/FAQs/Frequently-Asked-Questions/What-is-Be.html>. A true and  
 19 correct copy of this webpage is attached to this Declaration as Exhibit D. This webpage states  
 20 in relevant part:

21 Be. Provide's [sic] a proven game plan in which the artist gets to work with top  
 22 entertainment pros that who will prepare them to be evaluated by top agents,  
 23 managers and casting directors in San Francisco and Hollywood. If you've been  
 24 told your child has talent, and you want to get their career launched in the  
 25 entertainment industry, you've come to THE right place. Remember there are a  
 lot of things you will need to prepare before you can get started in TV, film and  
 commercials! Here at BE, we'll help you with the details of everything you'll  
 need to know.

26 . . .  
 Are You an AGENT Looking for Talent? Looking for talent for your next big  
 production? CLICK HERE

27 6. On or about July 20, 2009, I downloaded the webpage publicly available at  
 28 <http://gonnabe.com/kids/Terms-and-Conditions/User-Agreement/User-Agreement.html>. A

1 true and correct copy of this webpage is attached to this Declaration as Exhibit E. This  
 2 webpage states in relevant part: (1) "Our website, [www.gonnabe.com](http://www.gonnabe.com) (the "Website") is  
 3 owned and operated by BE Marketing Ltd, which is located at 57 Woody Close, Delves Lane,  
 4 County Durham Consett DH8 7HN United Kingdom"; and (2) "Are You an AGENT Looking  
 5 for Talent? Looking for talent for your next big production? CLICK HERE."

6  
 7 7. On or about July 20, 2009, I downloaded the webpage publicly available at  
 8 <http://gonnabe.com/kids/Talent-Representation/Agents/-/Filmmakers/Looking-for-Talent.html>.

9 A true and correct copy of this webpage is attached to this Declaration as Exhibit F. This  
 10 webpage states in relevant part:

11 Looking for Talent?  
 12 Browse Our Talent  
 13 Would you like to look through all of our Talent to find just the perfect fit?  
 14 CLICK HERE  
 15 Talent Search  
 16 Looking for a specific criteria to meet your production needs? CLICK HERE  
 17 AGENT / CASTING AGENT Registration  
 18 Are you interested in using our talent for an upcoming role in a Movie,  
 19 Television Show, or Commercial? Do you think one of our kids would be great  
 20 for your professional print catalog or advertisement? Do you have a need for  
 21 some incredible dancers in your next production? Are you an Agent and you are  
 22 interested in representing one or more of our kids? CLICK HERE.

23 The links from this webpage lead to a database of Be., LLC customers.

24 8. On or about July 20, 2009, I downloaded the webpage publicly available at  
 25 <http://gonnabe.com/kids/FAQs/Frequently-Asked-Questions/Are-you-like-an-agent.html>. A  
 26 true and correct copy of this webpage is attached to this Declaration as Exhibit G. This  
 27 webpage states in relevant part:

28 Are you an Agency?  
 NO, we are not an agency nor do we procure jobs for our members. However,  
 we are the source for meeting 100's of agents, managers, casting directors, and  
 producers that are responsible for signing and helping our members work each  
 year. . . . Are You an AGENT Looking for Talent? Looking for talent for your  
 next big production? CLICK HERE

9. On or about August 11, 2009, I obtained copies of UCC security interest  
 registrations in Be., LLC's property that Jacob Steinbeck and 1901 Co. had filed with the  
 California Secretary of State. A true and correct copy of these registrations are attached to this

1 Declaration as Exhibits H and I, respectively.

2 10. On or about September 8, 2009, I had a telephone conference with Mark  
3 Tew, who is Monterey Financial Services, Inc.'s general counsel. Mr. Tew is a member of the  
4 California bar. In this telephone conference, Mr. Tew indicated that Monterey Financial  
5 Services, Inc. has purchased Be., LLC's account receivables and confirmed that Monterey may  
6 contact former Be., LLC customers in order to collect unpaid amount allegedly due under those  
7 contracts.

8 11. On September 18, 2009, I used the service at Domaintools.com to obtain  
9 historical information about the domain name "mytalentservice.com." I have no reason to  
10 believe that any information provided by Domaintools.com is inaccurate. A true and correct  
11 copy of the June 23, 2009 domain name registration information for "mytalentservice.com" I  
12 obtained from Domaintools.com is attached to this Declaration as Exhibit J. The June 23, 2009  
13 domain name registration for the domain name "mytalentservice.com" lists "[V]ic  
14 [R]ashkovan" as the administrative and technical contact for that domain name.

15 12. On September 23, 2009, I visited the website at  
16 <http://beproductionsscam.blogspot.com> and downloaded the webpage publicly available at  
17 <http://beproductionsscam.blogspot.com/2009/07/eric-desando-in-dallas-texas.html>. A true and  
18 correct copy of this webpage is attached to this Declaration as Exhibit K. This website is  
19 maintained by Scott Poggenburg, who is a disgruntled former customer of Be., LLC. The  
20 posting attached as Exhibit K purports to contain a copy of an email sent from Erik DeSando  
21 to another disgruntled former customer of Be., LLC. This purported email states in relevant  
22 part:

23  
24 the company has been taken over by a conservatorship by the biggest debtor  
25 who has a UCC filing on any assets...meaning there is nothing left to return to  
26 customers. . . . my recommendation is to use the services and discounts still  
available and not waste your time trying to get money from a company that is on  
the verge of bankruptcy.

27 I have no reason to believe that this posting inaccurately reports Mr. DeSando's email.

28 13. On or about September 24, 2009, I downloaded the webpage publicly

1 available at <http://gonnabe.com/kids/>. A true and correct copy of this webpage is attached to  
2 this Declaration as Exhibit L. This webpage states in relevant part: (1) “We have decided to  
3 ask for assistance from ‘My Talent Services’ (MTS) which is an independent company that  
4 was contracted by Be LLC to provide the services to which our members are entitled”; (2)  
5 “Are You an AGENT Looking for Talent? Looking for talent for your next big production?  
6 CLICK HERE”; and (3) lists “talentservice@mytalentservice.com” as a “Scheduling Email,”  
7 used to communicate with Be., LLC customers.  
8

9 14. Pursuant to 28 U.S.C. § 1746, I declare under penalty of perjury that the  
10 foregoing is true and correct.

11 Dated: September 25, 2009

By: s/Ethan Preston

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